IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#9 DB 7/11/00

In re the application of: Carl H. June *et al.*

Serial No.: 09/183,055

Filed: October 29, 1998

For: *METHODS FOR SELECTIVELY STIMULATING PROLIFERATION OF T-CELLS*

Attorney Docket No.: RPI-002CPBCN

Group Art Unit: 1644

Examiner: P. Gambel

Assistant Commissioner for Patents
Washington, D.C. 20231

Certificate of First Class Mailing (37 CFR 1.8(a))

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6/27/00
Date of Signature and of Mail Deposit

By: _____
Amy E. Mandragouras
Reg. No. 36,207
Attorney for Applicants

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

This is in response to the restriction requirement set forth in the Office Action dated December 27, 1999 (Paper No. 7). A request for the appropriate extension of time in which to respond is being filed concurrently herewith.

The Examiner has required restriction to one of the following inventions under 35 U.S.C. §121:

I. Claims 1, 45-68, drawn to methods of stimulating $CD8^+$ T cells with a first agent which stimulates a TCR.CD3 complex associated signal and a second agent which stimulates an accessory molecule, classified in Class 435, subclass 375.

II. Claims 69-70, drawn to methods of stimulating $CD8^+$ T cells with an anti-CD3 antibody, an anti-CD9 antibody and an anti-CD28 antibody, classified in Class 435, subclass 375.

Applicants hereby elect the Group II invention (claims 69-70) for prosecution in this application, *with traverse*.

Applicants traverse the restriction between the inventions of Groups I-II. Applicants respectfully submit that the inventions of Groups I-II are directed to methods which are not "independent" and "distinct." Specifically, these methods are connected in design, operation, and effect, in that they are both designed and used to stimulate $CD8^+$ T cells within a population of T cells to proliferate by using the same agents, *e.g.*, anti-CD3, anti-CD9, and anti CD-28 antibodies.

Moreover, Applicants respectfully submit that a sufficient search and examination with respect to the inventions of Groups I-II, can be made without serious burden on the Examiner. As the M.P.E.P. states:

> [i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.
>
> M.P.E.P. § 803.

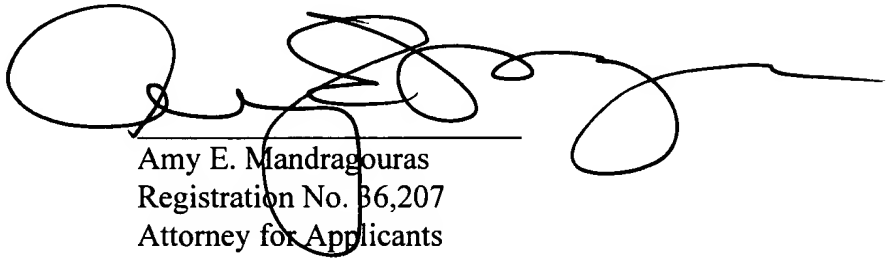
The inventions of Groups I-II have both been classified in Class 435, subclass 375. As such, the searches with regard to these inventions would be co-extensive and would not involve a serious burden on the Examiner. Applicants therefore request that the Examiner examines Groups I-II.

Applicants reserve the right to traverse the restriction between the non-elected groups in this or a separate application.

CONCLUSION

If a telephone conversation with Applicants' Attorney would expedite prosecution of the above-identified application, the Examiner is urged to call the undersigned at (617) 227-7400.

Respectfully submitted,



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Dated: June 27, 2000